

Abusing Parliamentary Procedures

Amal Sethi

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Unlike the post-world-war era, democracies are no longer [subverted via coups](#). Would-be autocrats pursue anti-democratic agendas [through laws](#) to imbue them with a veneer of legitimacy. This renaissance in authoritarianism has thrown into focus the institution of the legislature, which becomes the primary site for what Javier Corrales terms '[Autocratic Legalism](#)'. India is no stranger to the trend of Autocratic Legalism, and the ruling Bharatiya Janata Party ("BJP") has often taken the aid of the presiding officers in both Houses of the Parliament, to push forward its anti-democratic agendas. Considering how central a role presiding officers have played in eroding democracy in India, a radical shakeup to the way presiding officers are appointed and function is needed to ensure Indian democracy's long-term sustainability.

Violating constitutional conventions

[The Speaker of the Lower House](#) and the [Vice President of India](#) are the presiding officers of the Lower and Upper House of the Parliament, respectively. In their absence, the Deputy Speaker in case of the Lower House and Deputy Chairman in case of the Upper House fill in as presiding officers. The presiding officers regulate the conduct of the business of the Houses and are the sole authority for every procedural decision. Because of how these presiding officers [are appointed](#), more often than not a member of the ruling coalition is the presiding officer in the two Houses of the Parliament. Constitutional conventions [have required presiding officers to be non-partisan in their conduct](#), yet, in recent years, their conduct has [been far from that](#). In fact, in November 2019, the Indian Supreme Court [raised concerns](#) regarding presiding officers making partisan decisions against opposition members.

Early on in the BJP's tenure, the presiding officer in the Lower House allowed the BJP Government to [pass the Aadhar Act that concerned identity authentication as a Money Bill](#). Money Bills which relate to the spending and receiving of money by the Union Government are not required to go through the Upper House of the Parliament. Since the BJP Government, at the start of its first term, did not have a majority in the Upper House, it passed the Aadhar Act as a Money Bill. Further, as [explained by Tarunabh Khaitan](#), the presiding officer in the Lower House departed from constitutional conventions and has even refused to acknowledge the leader of the largest opposition party as the statutorily recognized leader of the opposition. Nevertheless, this is just the tip of the iceberg as the presiding officer of the Lower House has continuously ensured reducing the role of the opposition. Amidst the COVID 19 pandemic, the Indian Parliament [was not convened for an extended period](#) even as the government passed a range of ordinances. When the Parliament was [ultimately convened](#) in September 2020, the presiding officer [cancelled the](#)

[question hour](#) and curtailed the zero hour, which was an hour of the day reserved to raise questions of importance without advanced notice.

Contentious incidents were seen during the same period in the Upper House as well. Most notable has been the recent passage of the controversial [farm bills](#). In this instance, the presiding officer in the Upper House declared the law as passed [after a voice vote against which multiple opposition members had protested](#). The opposition member's request for a physical counting of the votes was rejected without providing any adequate justification. [Opposition members](#), as well as constitutional experts, have contended that [these summary rejections](#) were [in direct violation](#) of the rules of procedures of the Upper House. After the passage of the controversial farm bills, the presiding officer of the Upper House also suspended eight opposition MPs [for 'unruly behaviour'](#). As widespread protests against these bills by the farmers' organizations continue in large parts of the country, the role of the Parliament as a deliberative body seems to have been transformed into that of a notice board. It is worth noting that these [are not isolated events](#) in the BJP-controlled Parliament, and such incidents were [witnessed in the past](#) as well.

A radical shakeup

While [immediate action](#) by the different players in the system is required to safeguard Indian democracy, however, its long-term survival and flourishing could undoubtedly benefit from rethinking parliamentary structures, starting with the presiding officers in the Parliament. Under the current setup, the presiding officer of the Lower House is [appointed by a simple vote](#), and the Vice President acts as the presiding officer of the Upper House. In the absence of these officers, deputy presiding officers fill in, who in both the Houses are appointed by a simple vote. As was mentioned earlier, because of how these presiding officers [are appointed](#), more often than not a member of the ruling coalition is the presiding officer in the two Houses of the Parliament. Consequently, we propose a radical shakeup to the way presiding officers are appointed and function. We contend the way forward should be for a reform in the constitutional structure that would allow for the appointment of two Associate Speakers and two Deputy Associate Speakers in both the Houses on the first day of the respective Houses. The ruling coalition would appoint one Associate Speaker and one Deputy Associate Speaker, and the other Associate Speaker and Deputy Associate Speaker would be appointed jointly by the opposition coalition and non-aligned members. It should not matter what percentage of seats the opposition coalition or non-aligned members have in being able to appoint an Associate or Deputy Associate Speaker. The two Associate Speakers would alternate as the presiding officer every six months. In the absence of the Associate Speaker, the respective coalitions Deputy Associate Speaker would fill in as the presiding officer.

The Indian Parliament has three sessions over the year: the Budget Session (January/February to May), the Monsoon Session (July to August/September), the Winter Session (November to December). Effectively one Associate Speaker would be the presiding officer of the Budget Session in a given year and the other Associate Speaker the Monsoon and Winter Sessions. So that there is an alteration between the sessions, an Associate Speaker gets to preside over, we suggest that

the sessions an Associate Speaker presides in a given year get reversed in the following year. Simply put, if in a given year an Associate Speaker would preside over the Budget Session, in the next year they would preside over the Monsoon and Winter Sessions. Considering the term of the Indian Lower House is five years, one Associate Speaker would preside over three Budget Sessions and two Monsoon and Winter sessions. The other Associate Speaker would preside over two Budget sessions and three Monsoon and Winter Sessions. In a democratic system, it would only be fair that the ruling coalition gets to decide how they would like the division of sessions to take place. Though prudence would suggest that the ruling coalition would prefer that its Associate Speaker presides over three budget sessions considering its importance. In the Upper House, there would be a different logistical issue. Members of the Upper House have six-year terms with 1/3 of the seats in the House up for election every two years. Thus, the ruling and opposition coalitions in the Upper House are more dynamic. In the case of the Upper House, we suggest that the Associate Speakers be appointed for two-year renewable terms to account for the changing compositions of the House.

This new setup we believe would reduce the abuse of their powers by the presiding officers. Ruling coalition Associate Speakers would be careful about misusing their powers when presiding officers, for the fear that their coalition might face retribution when the other Associate Speaker is the presiding officer. The same would go for when the non-ruling coalition Associate Speakers are presiding officers. They would be careful before playing hardball to avoid backlash when the tables are reversed. Such a change in the way presiding officers are appointed and function would allow the conversion of the present system, which currently does not promote cooperative outcomes to one which does. In the current system, [constitutional conventions, which themselves seem to face erosion and lack the same strength as they had in earlier times](#), are the only checks on the Office of the Speaker. This is also one of the reasons why we propose alternating 6-month terms where Associate Speakers preside over different sessions. For example, if each of the Associate Speaker in the Lower House served as the presiding officer for a continuous term of two and the half years, they might not feel the need for any short-term cooperation with coalitions they do not belong to. This could potentially result in a Lower House which would see two and a half years of aggressive policymaking by the ruling coalition followed by two and a half years of obstructionism. On the other hand, knowing that within the same year a particular Associate Speaker's coalition might need cooperation from presiding officers not aligned to their coalitions, they might be compelled to undertake their role as a presiding officer efficiently and fairly. The same logic applies if Associate Speakers acted as presiding officers for continuous terms in the Upper House. Additionally, to counterbalance this new regime, similar to the system already in place, any of the Associate or Deputy Associate Speakers can be removed by a majority vote of their respective Houses. This could serve as an added safeguard against any obstructionism by the non-ruling coalition Associate or Deputy Associate Speakers.

A backstop to India's democratic decline

Critics might raise objections with our proposals stating that this would curtail the 'will of the people'. However, considering the role of the presiding officer is technically to regulate parliamentary procedures and ensure the efficient conduct of the business, we believe that such concerns are slightly overstated. Furthermore, considering the significant misuse of the position of the presiding officer which has the effect of threatening democracy itself, this might be a cost worth bearing. Moreover, it is believed that the [success of parliamentary democracies is highly dependent on the effectiveness of the opposition parties](#). Completely isolating the opposition parties is itself bad for democracy and reduces democracy to a sum-zero game where the losers are entirely locked out. In India, the opposition parties have been rendered powerless by the ruling government's manipulation of parliamentary procedures. Such a change in the status quo could help empower opposition parties without significantly diluting the electoral success of the ruling coalition.

We believe our suggestion is a small way to get the dice rolling on rethinking democracy's structure and processes in India. Changes such as the one suggested above can act as a backstop to India's democratic decline and at the same time, enable better parliamentary deliberation and representation.

